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09/235,038	01/21/1999	STEVE KRUY	777.240US1	5262

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EXAMINER

COLBERT, ELLA

ART UNIT PAPER NUMBER

3624

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/235,038

Applicant(s)

KRUY ET AL.

Examiner

Ella Colbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-19, 21, and 22 are pending. Claims 1-8, 19, 21, and 22 have been amended and claim 20 has been cancelled in this communication filed 1/22/04 entered as Amendment F, paper no. 28.

2. Applicants' amendment to claims 1-8, 19, 21, and 22 and the cancellation of claim 20 have overcome the 35 U.S.C. 112 second rejection of claims 1-8 and 19-22 and is hereby withdrawn.

3. Applicants' arguments have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the newly added amendment to claims 1 and 19.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what Applicants' are claiming in claims 1 and 19 with the claim limitation reciting "...database item is checked out, the second program compares the version of the database item in the source code control (SCC) ...". Do Applicants' mean "...database item is checked out and the second program compares the version of the database item in the source code control (SCC) ..."?

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Applicants' are respectfully requested to clarify in the claim language this claim limitation.

Claim Objections

6. Claims 1, 4-13, 15-17, 19, and 22 are objected to because of the following informalities: Claims 1, 4-13, 15-17, 19, and 22 recite "... source code control (SCC) ...". It is unnecessary to have the SCC in parenthesis. Applicants' are advised to see the MPEP for the proper claim format. Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,386,559) Eisenberg et al, hereafter Eisenberg in view of (US 4,558,413) Schmidt et al, hereafter Schmidt.

With respect to claim 1, a database having the item (fig. 1 (106) col. 14, lines 47-50), wherein the database item comprises a text stream and a binary stream (fig. 14, col. 35, lines 21-66 and col. 36, lines 1-10).

Eisenberg failed to teach, a source code control (SCC) system to store versions of the item and a second program to check in and check out the database item, such that modification of the database item is restricted when the database item is checked out, the second program compares the version of the database item in the source

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code (SCC) system with the version of the database item in the database and a first program to manipulate the checked-out database item as a function of the comparison.

Schmidt discloses a source code control (SCC) system to store versions of the item (col. 3, lines 56-60), and a second program to check in and check out the database item, such that the modification of the database item is restricted when the database item is checked out (col. 4, lines 44-50), the second program compares the version of the database item in the source code (SCC) system with the version of the database item in the database and a first program to manipulate the checked-out database item as a function of the comparison. Schmidt did not specifically teach the second program compares the version of the database item in the source code (SCC) system with the version of the database item in the database but Schmidt implies the second program compares the version of the database item in the source code (SCC) system with the version of the database item in the database and a first program to manipulate the checked-out database item as a function of the comparison in col. 4, lines 3-22 and col. 8, lines 45-50.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a source code control (SCC) system to store versions of the database item a second program to check in and check out the item, such that modification of the item is restricted when the item is checked out a second program to check in and check out the item, such that modification of the item is restricted when the item is checked out and to combine Eisenberg's a database having the item

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with Schmidt's source code control (SCC) system to store versions of the item and a second program to check in and check out the database item, such that modification of the item is restricted when the item is checked out, the second program compares the version of the database item in the source code control (SCC) system with the version of the database item in the database and a first program to manipulate the checked-out database item as a function of the comparison because such a modification in Eisenberg would allow Eisenberg's system manage the versions of source code programs enforcing a check-in and check-out regimen for controlling access to versions of programs being changed (modified).

With respect to claim 2, Eisenberg failed to teach, the first program comprises an editor program to edit the stored item. Schmidt discloses the first program comprises an editor program to edit the stored item (col. 18, lines 44-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first program comprise an editor program to edit the stored item and to modify in Eisenberg because such a modification would allow Eisenberg to have a program that assures the versions listed in a DF file are on the local computer disk.

With respect to claim 3, Eisenberg failed to teach, the first program requests to check out the database item such that the second program checks out the database item to the first program. Schmidt teaches, the first program requests to check out the database item such that the second program checks out the database item to the first program (col. 3, lines 57-60 and col. 4, lines 3-22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first

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program to request to check out the database item such that the second program check out the database item to the first program and to combine Eisenberg's database having a database item with Schmidt's checking the item out because such a modification in Eisenberg would allow Eisenberg to have a Source Code Control System (SCC) that enforces the check-out regime and to control access to the first program and the second program.

With respect to claim 4, Eisenberg failed to teach the second program provides the first program a choice of one or more different versions of the item at the Source Code Control (SCC) System and one or more different versions of the item at the database. Schmidt teaches, the second program provides the first program a choice of one or different versions of the item at the database (col. 3, lines 45-58 and col. 4, lines 44-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the second program provides the first program a choice of one or more different versions of the item at the Source Code Control (SCC) System and one or more different versions of the item at the database and to modify in Eisenberg because such a modification would allow Eisenberg to make use of the modification times from the file system to tell which files need to be remade.

With respect to claim 5, this dependent claim is rejected for the similar rationale given for claim 4.

With respect to claim 6, this dependent claim is rejected for the similar rationale given for claim 4.

9. Claims 7- 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eisenberg and Schmidt in view of (US 6,145,119) House et al, hereafter House.

With respect to claim 7, Eisenberg failed to teach, the first program requests to check in the database item such that the second program checks in the database item into the source code control (SCC) system. House teaches the first program and the second program (col. 4, lines 32-49). Schmidt discloses checking the item in (col. 3, lines 57-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first program to request to check in the item and the second program check in the item into the source code control (SCC) and to combine Eisenberg's database item with Schmidt's checking the item into the source code control (SCC) and House's first program and second program with because such a modification in Eisenberg would allow Eisenberg to have a Source Code Control System (SCC) that enforces the check-out regime and to control access to the first program and the second program.

With respect to claim 8, Eisenberg failed to teach, the second program checks in the database item into the source code control (SCC) system as saved to the database. House teaches the second program (col. 4, lines 32-49)

House failed to teach checking in the item into the source code control (SCC) system as saved to the database. Schmidt teaches checking in the database item into the source code control (SCC) system as saved to the database (col. 4, lines 44-56). It would have been obvious to one having ordinary skill in the art at the time the

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invention was made to check in the item into the source code control (SCC) as saved to the database and to combine Eisenberg's database item comprising a text stream with House's second program and with Schmidt's checking the item into the source code control (SCC) as saved to the database because such a modification in Eisenberg would allow Eisenberg to have a Source Code Control System (SCC) that enforces the check-in regime and to control access to the second program and to save the item to a database. A database is well known in the art as being a file composed of records containing fields together with a set of operations for searching, sorting, recombining, and other functions.

With respect to claim 9, Eisenberg and Schmidt failed to teach, the database comprises a Structured Query Language (SQL) database. House teaches the database comprises a Structured Query Language (SQL) database (col. 5, lines 10-27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the database comprise a Structured Query Language (SQL) database and to modify in Eisenberg because such a modification would allow Eisenberg to have a standard language for RDBMS software and has been adopted as such by both the American National Standards Organization (ANSI) and the International Standards Organization (ISO).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 10- 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,145,119) House et al, hereafter House in view of (US 4,558,413) Schmidt et al, hereafter Schmidt.

With respect to claim 10, House teaches comparing a stream of the item in the source code control (SCC) system with a stream of the item in a database (col. 7, lines 6-28); determining whether the stream in the source code control (SCC) system is identical to the stream in the database (col. 7, lines 16-22); upon

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determining that the system in the source code control (SCC) system is different than the stream in the database, providing a user a choice to select one of the stream in the source code control (SCC) system and the stream in the database (col. 3, lines 46-51 and col. 7, lines 30-42). House failed to teach checking out the item selected by the user, such that modification of the item is restricted when the item is checked out.

Schmidt teaches checking out the item selected by the user, such that modification of the item is restricted when the item is checked out (col. 3, lines 57-68 and col. 4, lines 1-22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to compare a stream of the item in the source code control (SCC) system with a stream of the item in a database, determine whether the stream in the source code control (SCC) system is different than the stream in the database, provide a user a choice to select one of the stream in the source code control (SCC) system and the stream in the database and to combine House's comparing a stream of the item in the source code control (SCC) system with a stream of the item in a database, determine whether the stream in the source code control (SCC) system is different than the stream in the database, provide a user a choice to select one of the stream in the source code control (SCC) system and the stream in the database with Schmidt's checking the item out because such a modification in House would allow House to have a Source Code Control System (SCC) that enforces the check-out regime and restricts the modification to the (file) item.

With respect to claim 11, House teaches, retrieving the stream of the item (col. 7, lines 16-22) and retrieving the stream of the item from the database (col. 3, lines 48-51 and col. 7, lines 6-11). House failed to teach source code control (SCC) system. Schmidt teaches, the source code control (SCC) system (col. 3, lines 56-58). It would have been obvious to one having ordinary skill in the art at the time the invention was made to retrieve the stream of the item and retrieve the stream of the item from the database and to combine House's retrieving the stream of the item and retrieving the stream of the item from the database with Schmidt's source code control (SCC) system because such a modification in House would allow House to have a Source Code Control System (SCC) that enforces the check-out regime and to control access.

With respect to claim 12 this dependent claim is rejected for the similar rationale given for claim 10.

With respect to claim 13 this dependent claim is rejected for the similar rationale given for claims 11 and 12.

With respect to claim 14, this dependent claim is rejected for the similar rationale given for claims 10.

With respect to claim 15, this independent claim is rejected for the similar rationale given for claim 10.

With respect to claim 16, this dependent claim is rejected for the similar rationale given for claim 11.

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With respect to claim 17, this dependent claim is rejected for the similar rationale given for claims 11-13.

With respect to claim 18, this claim is rejected for the similar rationale given for claim 14.

Allowable Subject Matter

13. Claims 19, 21, and 22 will be allowable when the claim objects and the 35 U.S.C. 112 second paragraph are overcome.

The reasons for the indication of allowable subject matter would be as follows:

Applicants' editor to manipulate the checked-out database item, the first program comparing the version of the database item in the source code control system with the version of the database item in the database and the editor manipulating the database item as a function of the comparison, the prior art fails to anticipate, make obvious, or fairly suggest Applicant's invention.

Conclusion

14. Souder et al (US 5,724,556) discloses programs in a distributed computer system, source code, a database, and SQL statements.


Inquiries

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday from 6:30 am -5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


E. Colbert
March 31, 2004